

2 2007 correspondence talks about a review of
3 records entered into the CLEAN NCIC by the
4 Newtown Township Police Department.

5 Correct?

6 A. Yes, sir.

7 Q. Okay. In the course of your
8 tenure in CLEAN, aside from the trip to
9 Newtown Township for the missing persons'
10 report, okay, were you aware there were any
11 other investigations being done in Newtown
12 about the accuracy of their records?

13 A. No, sir.

14 Q. Okay. And you left when?

15 MR. HENZES: September of
16 '07. He told you four times.

17 MR. PURICELLI: Do you
18 want to testify, Randy?

19 MR. HENZES: He told you
20 four times.

21 MR. PURICELLI: I have
22 reasons for my questions.

23 THE WITNESS: I left in
24 September of '07.

25

2 BY MR. PURICELLI:

3 Q. Okay.

4 A. My mother got sick and I was
5 transferred back home.

6 Q. Okay. Did you report to anybody,
7 including Fultz, that Newtown Township lacked
8 jurisdiction to have made any entry on
9 missing children?

10 A. I don't remember reporting that
11 to anyone that wasn't aware of anything. I
12 think maybe that came up in discussion with
13 Lieutenant Hile.

14 Q. When you were talking to him
15 last?

16 A. Yes.

17 Q. Who brought that --

18 A. Well, when I contacted him about
19 our findings in going down there May 17.

20 Q. Who brought up the issue of
21 jurisdiction?

22 A. I think I just told him that
23 we're not there to look at jurisdictional
24 areas. We're there to solely look to see if
25 there's a report on file.

2 Q. Fair enough.

3 In order for you to make
4 that kind of comment would it be fair to
5 conclude that he had to have asked?

6 A. He may have. I don't recall.

7 Q. Okay.

8 A. I think that did come up, though.

9 Q. All right. So that in your
10 testimony in the arbitration you had
11 indicated that you made clear to Newtown
12 Township that you weren't interested in
13 whether the township had jurisdiction or not
14 to enter the -- only that they had a report.

15 Correct?

16 A. That's correct.

17 Q. Okay. So assuming Hile brought
18 it up would you have asked him why are you
19 asking that, whether they had jurisdiction or
20 not?

21 A. I don't remember that being asked
22 by Lieutenant Hile. I think I just told him
23 what I said earlier, that we're not there to
24 look at jurisdictional issues. We're there
25 solely for the CLEAN.

2 Q. Well, why would you talk about
3 something that was never a focus of your
4 investigation?

5 A. I think it might just be
6 something that most people would be concerned
7 with or think about.

8 Q. All right. If you were never
9 considering jurisdiction you wouldn't even be
10 looking for it.

11 Would you?

12 A. It was obvious, you know, they
13 lacked jurisdiction, but I wasn't there for
14 that reason.

15 Q. Well, you remember going through
16 your testimony at the arbitration about the
17 Municipal Police Officers Jurisdiction Act?

18 A. Uh-huh.

19 Q. Okay. Since that have you done
20 any research to find out whether or not, in
21 fact, they did or didn't have jurisdiction?

22 A. Well, I did at one time
23 afterwards look at the Municipal Police
24 Officers Jurisdiction Act and it's my belief
25 from reading that Act that a municipal police

2 officer can effect an arrest for breeches of
3 the peace, felonies and misdemeanors if he's
4 out of his jurisdiction and on official
5 business, but things that are brought into
6 the jurisdiction don't apply to that Act.

7 Q. While you were doing your
8 research did you happen to look up Title 18
9 of the Crimes Code Section 2908, missing
10 children?

11 A. No.

12 Q. Wouldn't that be a statute that
13 you would be familiar with in CLEAN?

14 A. Probably not, sir.

15 Q. Well, doesn't that statute
16 specifically discuss CLEAN?

17 A. I believe it does.

18 Q. Okay. Doesn't it specifically
19 require any law enforcement officer to make
20 an entry in CLEAN of a missing child?

21 A. I believe it does.

22 Q. Okay. Now, if the legislator
23 says any police officer can enter a missing
24 child in CLEAN and, in fact, uses the word
25 shall -- if you want to read the statute

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2 you're free to.

3 A. That's okay.

4 Q. I have it in front of me.

5 Wouldn't any police
6 officer in the Commonwealth of Pennsylvania
7 have jurisdiction to enter a missing child in
8 CLEAN?

9 A. I believe so.

10 Q. Okay.

11 A. If the child is missing.

12 Q. Now, if the legislator gave any
13 police officer jurisdiction to enter a
14 missing child in CLEAN, how do you conclude
15 Newtown Township Police, Commonwealth agency,
16 law enforcement agency didn't have
17 jurisdiction to enter the missing children in
18 CLEAN?

19 A. I believe they can enter children
20 in CLEAN, but they can't investigate it.

21 Q. Okay. And did you come across in
22 your investigation --

23 A. For missing children. I'm sorry.

24 Q. No. Not a problem.

25 Okay did you come across

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2 any investigation report by the Newtown
3 Police Department on missing children?

4 A. No.

5 Q. All you had was a form showing a
6 lawful entry under the law of 2908 of an
7 entry of missing children.

8 Correct?

9 A. Well, I don't know the
10 circumstances of the children; if they were
11 actually missing.

12 Q. Did you bother to check?

13 A. No. I was relying on information
14 provided to me.

15 Q. From Fultz.

16 A. Yes, sir.

17 Q. And was that oral or written?

18 A. Oral.

19 Q. Okay. Did you look to see if his
20 information was reliable?

21 A. And, actually, that was in his
22 report, also. His CLEAN investigation
23 report.

24 Q. His report was done after the
25 investigation.

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2 A. After the fact. Yes, sir.

3 Q. Uh-huh.

4 Isn't it common practice
5 to keep a running report?

6 A. I'm not sure what you mean by
7 running report.

8 Q. Let's say, for example, today you
9 received a complaint of missing children, for
10 example. You would say today I received a
11 complaint about missing children.

12 Correct?

13 A. Okay.

14 Q. Okay. And you would start your
15 report.

16 Correct?

17 A. Yes.

18 Q. Okay. And let's say two months
19 from now you finally went out and looked for
20 the missing children. You would then two
21 months from now make an entry in that report
22 you already started.

23 Correct?

24 A. That's how I would do it, sir.

25 Q. Okay. So let's assume two months

1
2 after you received the information, well,
3 possible location where these maybe missing
4 children would be, you decide to contact the
5 police department, say, for example
6 Albuquerque, New Mexico. So you're four
7 months into the investigation. You would
8 make an entry then.

9 Wouldn't you?

10 A. I probably would.

11 Q. Okay. And is that the way the
12 State Police taught you to do report writing?

13 A. I believe so.

14 Q. Okay. Is there anything you can
15 tell me that the State Police taught you not
16 to do it that way?

17 A. I think it's good practice to
18 document things as they come up so you have
19 access to it.

20 Q. So you remember exactly who said
21 what.

22 Right?

23 A. Yes, sir.

24 Q. You're not relying necessarily
25 completely on your memory.

2 Correct?

3 A. Yes, sir.

4 Q. And we can agree that police
5 officers' memories are just as fallible as
6 others in certain areas?

7 A. Yes, sir.

8 Q. Okay. Now, Fultz's report wasn't
9 started when he received the assignment.

10 Was it?

11 A. I don't know that.

12 Q. You don't know.

13 Well, you were the
14 supervisor.

15 Did you check?

16 A. I wasn't there when he started
17 the assignment.

18 Q. How do you know that his report
19 that he submitted to you wasn't typed after
20 your visit to Newtown Township?

21 A. It may well have been, sir.

22 Q. When I say "typed," I mean in its
23 totality.

24 A. It may have been.

25 Q. So he could have, isn't it true,

2 excluded information he wanted to exclude in
3 that report?

4 A. If he chose to, I suppose so.

5 Q. Okay. And you as the supervisor
6 having gone through supervisory schooling
7 knew you had liability based on what he did
8 or didn't do.

9 Isn't that true?

10 A. Yes, sir.

11 Q. Okay. So why not didn't you
12 ensure that Trooper Fultz's report was
13 thorough, accurate and done in accordance
14 with the policies and the practices of the
15 Pennsylvania State Police?

16 A. From my review it was done
17 thoroughly and accurately and in accordance
18 with those policies.

19 Q. Well, we can agree that you
20 didn't know when he started that report
21 writing.

22 Correct?

23 A. That's correct.

24 Q. And we can agree that you don't
25 even know if there's proper form that even

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2 permitted him to even start his
3 investigation.

4 Isn't that correct?

5 A. No. I don't -- I don't think
6 that is correct. He received --

7 Q. Before he came to you -- not to
8 keep repeating ourself -- you saw no
9 document.

10 Correct?

11 A. That's correct.

12 MR. HENZES: Objection.

13 Asked and answered. You gave me the
14 objection.

15 Can we ask something
16 that's beyond you disagreeing with his
17 answers?

18 MR. PURICELLI: Last time
19 I checked intentional and reckless
20 conduct was a necessary element I had to
21 prove.

22 MR. HENZES: That's
23 assuming he did anything to your client,
24 but that's another story.

25 Go ahead.